



2009 ASSEMBLY BILL 867

March 19, 2010 - Introduced by Representatives BIES, MEYER, MURSAU, CLARK, BROOKS, LEMAHIEU, SPANBAUER, VOS, TOWNSEND, GUNDERSON and PETROWSKI, cosponsored by Senators HOLPERIN, A. LASEE, OLSEN, SCHULTZ and LEIBHAM. Referred to Joint Committee on Finance.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45
2 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (5n), 71.10 (4) (cd), 71.28 (5n), 71.30
3 (3) (cd), 71.47 (5n) and 71.49 (1) (cd) of the statutes; **relating to:** a tax credit
4 for hospitality business advertising.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit equal to 10 percent of the amount that a taxpayer spends in the taxable year on advertising outside of this state to promote the taxpayer's hospitality business located in this state. If the credit claimed by a taxpayer exceeds the taxpayer's tax liability, the state will not issue a refund check, but the taxpayer may carry forward any remaining credit to subsequent taxable years.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
6 28, is amended to read:

ASSEMBLY BILL 867**SECTION 1**

1 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
3 (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a
4 partnership, limited liability company, or tax-option corporation that has added that
5 amount to the partnership's, company's, or tax-option corporation's income under s.
6 71.21 (4) or 71.34 (1k) (g).

7 **SECTION 2.** 71.07 (5n) of the statutes is created to read:

8 71.07 (5n) HOSPITALITY BUSINESS ADVERTISING CREDIT. (a) *Definitions.* In this
9 subsection:

10 1. "Claimant" means a person who files a claim under this subsection.

11 2. "Hospitality business" means a hospitality business located in this state,
12 including a business that is classified in the standard industrial classification
13 manual, 1987 edition, published by the U.S. office of management and budget, under
14 any of the following industry numbers:

15 a. 5812 — Eating places.

16 b. 5813 — Drinking places.

17 c. 7011 — Hotels and motels.

18 d. 7032 — Sporting and recreational camps.

19 e. 7033 — Recreational vehicle parks and campsites.

20 f. 7922 — Theatrical producers and miscellaneous theatrical services.

21 g. 7929 — Bands, orchestras, actors, and other entertainers and entertainment
22 groups.

23 h. 7948 — Racing, including track operation.

24 i. 7992 — Public golf courses.

25 j. 7996 — Amusement parks.

ASSEMBLY BILL 867

1 k. 7997 — Membership sports and recreation clubs.

2 L. 7999 — Amusement and recreational services, not elsewhere classified.

3 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
4 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
5 amount of the tax, an amount equal to 10 percent of the amount the claimant spent
6 in the taxable year on advertising outside of this state to promote the claimant's
7 hospitality business.

8 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
9 corporations may not claim the credit under this subsection, but the eligibility for,
10 and the amount of, the credit are based on their payment of amounts under par. (b).
11 A partnership, limited liability company, or tax-option corporation shall compute
12 the amount of credit that each of its partners, members, or shareholders may claim
13 and shall provide that information to each of them. Partners, members of limited
14 liability companies, and shareholders of tax-option corporations may claim the
15 credit in proportion to their ownership interests.

16 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
17 s. 71.28 (4), applies to the credit under this subsection.

18 **SECTION 3.** 71.10 (4) (cd) of the statutes is created to read:

19 71.10 (4) (cd) Hospitality business advertising credit under s. 71.07 (5n).

20 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
21 amended to read:

22 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
23 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),
24 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and passed through to partners shall
25 be added to the partnership's income.

ASSEMBLY BILL 867**SECTION 5**

1 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 28,
2 is amended to read:

3 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
4 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),
5 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a
6 partnership, limited liability company, or tax-option corporation that has added that
7 amount to the partnership's, limited liability company's, or tax-option corporation's
8 income under s. 71.21 (4) or 71.34 (1k) (g).

9 **SECTION 6.** 71.28 (5n) of the statutes is created to read:

10 71.28 **(5n)** HOSPITALITY BUSINESS ADVERTISING CREDIT. (a) *Definitions.* In this
11 subsection:

12 1. "Claimant" means a person who files a claim under this subsection.

13 2. "Hospitality business" means a hospitality business located in this state,
14 including a business that is classified in the standard industrial classification
15 manual, 1987 edition, published by the U.S. office of management and budget, under
16 any of the following industry numbers:

17 a. 5812 — Eating places.

18 b. 5813 — Drinking places.

19 c. 7011 — Hotels and motels.

20 d. 7032 — Sporting and recreational camps.

21 e. 7033 — Recreational vehicle parks and campsites.

22 f. 7922 — Theatrical producers and miscellaneous theatrical services.

23 g. 7929 — Bands, orchestras, actors, and other entertainers and entertainment
24 groups.

25 h. 7948 — Racing, including track operation.

ASSEMBLY BILL 867

1 i. 7992 — Public golf courses.

2 j. 7996 — Amusement parks.

3 k. 7997 — Membership sports and recreation clubs.

4 L. 7999 — Amusement and recreational services, not elsewhere classified.

5 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
6 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
7 amount of the tax, an amount equal to 10 percent of the amount the claimant spent
8 in the taxable year on advertising outside of this state to promote the claimant's
9 hospitality business.

10 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
11 corporations may not claim the credit under this subsection, but the eligibility for,
12 and the amount of, the credit are based on their payment of amounts under par. (b).
13 A partnership, limited liability company, or tax-option corporation shall compute
14 the amount of credit that each of its partners, members, or shareholders may claim
15 and shall provide that information to each of them. Partners, members of limited
16 liability companies, and shareholders of tax-option corporations may claim the
17 credit in proportion to their ownership interests.

18 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
19 sub. (4), applies to the credit under this subsection.

20 **SECTION 7.** 71.30 (3) (cd) of the statutes is created to read:

21 71.30 (3) (cd) Hospitality business advertising credit under s. 71.28 (5n).

22 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
23 is amended to read:

24 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
25 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),

ASSEMBLY BILL 867**SECTION 8**

1 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n),
2 and (8r) and passed through to shareholders.

3 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
4 28, is amended to read:

5 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
6 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3w), (5e), (5f),
7 (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a partnership,
8 limited liability company, or tax-option corporation that has added that amount to
9 the partnership's, limited liability company's, or tax-option corporation's income
10 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
11 (1), (3), (3t), (4), (4m), and (5).

12 **SECTION 10.** 71.47 (5n) of the statutes is created to read:

13 71.47 (5n) HOSPITALITY BUSINESS ADVERTISING CREDIT. (a) *Definitions.* In this
14 subsection:

15 1. "Claimant" means a person who files a claim under this subsection.

16 2. "Hospitality business" means a hospitality business located in this state,
17 including a business that is classified in the standard industrial classification
18 manual, 1987 edition, published by the U.S. office of management and budget, under
19 any of the following industry numbers:

20 a. 5812 — Eating places.

21 b. 5813 — Drinking places.

22 c. 7011 — Hotels and motels.

23 d. 7032 — Sporting and recreational camps.

24 e. 7033 — Recreational vehicle parks and campsites.

25 f. 7922 — Theatrical producers and miscellaneous theatrical services.

ASSEMBLY BILL 867

1 g. 7929 — Bands, orchestras, actors, and other entertainers and entertainment
2 groups.

3 h. 7948 — Racing, including track operation.

4 i. 7992 — Public golf courses.

5 j. 7996 — Amusement parks.

6 k. 7997 — Membership sports and recreation clubs.

7 L. 7999 — Amusement and recreational services, not elsewhere classified.

8 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
9 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
10 amount of the tax, an amount equal to 10 percent of the amount the claimant spent
11 in the taxable year on advertising outside of this state to promote the claimant's
12 hospitality business.

13 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
14 corporations may not claim the credit under this subsection, but the eligibility for,
15 and the amount of, the credit are based on their payment of amounts under par. (b).
16 A partnership, limited liability company, or tax-option corporation shall compute
17 the amount of credit that each of its partners, members, or shareholders may claim
18 and shall provide that information to each of them. Partners, members of limited
19 liability companies, and shareholders of tax-option corporations may claim the
20 credit in proportion to their ownership interests.

21 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
22 s. 71.28 (4), applies to the credit under this subsection.

23 **SECTION 11.** 71.49 (1) (cd) of the statutes is created to read:

24 71.49 (1) (cd) Hospitality business advertising credit under s. 71.47 (5n).

ASSEMBLY BILL 867**SECTION 12**

1 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
2 amended to read:

3 77.92 (4) “Net business income,” with respect to a partnership, means taxable
4 income as calculated under section 703 of the Internal Revenue Code; plus the items
5 of income and gain under section 702 of the Internal Revenue Code, including taxable
6 state and municipal bond interest and excluding nontaxable interest income or
7 dividend income from federal government obligations; minus the items of loss and
8 deduction under section 702 of the Internal Revenue Code, except items that are not
9 deductible under s. 71.21; plus guaranteed payments to partners under section 707
10 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
11 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
12 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r); and plus or minus, as
13 appropriate, transitional adjustments, depreciation differences, and basis
14 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
15 loss, and deductions from farming. “Net business income,” with respect to a natural
16 person, estate, or trust, means profit from a trade or business for federal income tax
17 purposes and includes net income derived as an employee as defined in section 3121
18 (d) (3) of the Internal Revenue Code.

19 **SECTION 13. Initial applicability.**

20 (1) This act first applies to taxable years beginning on January 1 of the year
21 in which this subsection takes effect, except that if this subsection takes effect after
22 July 31 this act first applies to taxable years beginning on January 1 of the year
23 following the year in which this subsection takes effect.

24

(END)